



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS TX 75202-2733

27 SEP 2017

**GENERAL NOTICE LETTER/104(e) INFORMATION REQUEST**

**URGENT LEGAL MATTER, PROMPT REPLY NECESSARY**

**CERTIFIED MAIL: RETURN RECEIPT REQUESTED #7014 0150 0000 2454 2476**

Eagle Industries, Inc.  
10901 SE 29th Street  
Midwest City, Oklahoma 73130

Re: General Notice Letter and Information Request Pursuant to CERCLA Section 104(e), 42 U.S.C. §9604(e), Information Request for the Eagle Industries, Inc., Site in Midwest City, Oklahoma County, Oklahoma

Dear Sir/Madam:

The purpose of this letter is to notify you, Eagle Industries, Inc. of your potential liability at the Eagle Industries, Inc. Site (Site) located in Midwest City, Oklahoma County, Oklahoma. This letter also seeks your cooperation in providing information and documents relating to the contamination of the Site. Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the EPA is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment – that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. The EPA has documented that such a release has occurred at the Site. The EPA has spent, or is considering spending, public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the Site. Based on information presently available to the EPA, the EPA has determined that you may be responsible under CERCLA for cleanup of the Site or costs the EPA has incurred in cleaning up the Site.

**Site Background**

The Eagle Industries Superfund Site is located at 10901 SE 29th Street, Midwest City, Oklahoma County, Oklahoma, and includes an aircraft oxygen and fire extinguisher repair and cleaning operation. Eagle Industries, Inc. was first incorporated in the State of Oklahoma in 1981. In 1989, a 4,560 square feet light industrial building was built on the property. Eagle Industries Inc. began operations on Site in 1990. Previous sampling investigations have indicated the presence of trichloroethylene (TCE), used as a solvent to clean airplane parts, in on-site soil and groundwater, and in an onsite residential well.

**Explanation of Potential Liability**

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect public health, welfare, or the environment. PRPs may also be responsible for costs incurred by U.S. Environmental Protection Agency (EPA) in cleaning up

the Site, unless the PRP can show divisibility or any of the other statutory defenses. PRPs include current and former owners and operators of a site as well as persons who arranged for treatment and/or disposal of any hazardous substance found at a site, and persons who accepted hazardous substances for transport and selected a site to which hazardous substances were delivered.

Based on the information collected, EPA believes that Eagle Industries, Inc. may be liable under Section 107(a) of CERCLA as a current or previous owner and/or operator of the Site.

Site response actions and Site costs may include, but are not limited to, expenditures for conducting a Removal Action, a Remedial Investigation/Feasibility Study, a Remedial Design/Remedial Action, and other investigation, planning, response oversight, and enforcement activities. In addition, PRPs may be required to pay for damages for injury to, destruction of or loss of natural resources, including the cost of assessing such damages.

To date, EPA and the State of Oklahoma have taken several response actions at the Site under the authority of the Superfund Program. Below is a brief description of the actions taken at the Site.

- The Oklahoma Department of Environmental Quality's (ODEQ) Preliminary Assessment conducted in July 2010 confirmed that on-site and off-site groundwater is contaminated with trichloroethylene (TCE) and 1,2 -Dichloroethane (DOE).
- ODEQ conducted a Site Investigation at the site in May 2011.
- A Site Inspection was conducted in July 2013 and revised in April 2015.
- A Phase I Residential Groundwater Sampling Event was conducted in March 2016.
- A subsequent Phase II Residential Groundwater Sampling Event was conducted in June 2016.

#### **Financial Concerns/Ability to Pay Settlements**

EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you fall within that category, please contact Anna Copeland for information on ability to pay settlements.:

Anna Copeland, Enforcement Officer  
Superfund Enforcement Assessment Team (6SF-TE)  
United States Environmental Protection Agency, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

In response, you will receive a package of information about the potential for such settlements and a form to fill out with information about your finances, and you will be asked to submit financial records including business [and personal] federal income tax returns. If EPA concludes that you have a legitimate inability to pay the full amount of EPA's costs, EPA may offer a schedule for payment over time or a reduction in the total amount demanded from you.

Also, please note that, because EPA has a potential claim against you, you must include EPA as a creditor if you file for bankruptcy. EPA reserves the right to file a proof of claim or an application for reimbursement of administrative expenses.

### **Information to Assist You**

EPA would like to encourage communication between Eagle Industries, Inc., and EPA at the Site. To assist you in your efforts to communicate, please find the following attached information:

1. List of names and addresses of PRPs to whom this letter is being sent
2. A fact sheet that describes the Site
3. The Federal Register Notice Proposing the Site for Listing on the NPL

EPA will establish an Administrative Record containing documents that serve as the basis for EPA's selection of a cleanup action for the Site. The Administrative Record will be available to you and the public for inspection and comment at:

EPA Region 6 Records Center  
1445 Ross Ave, Suite 1200  
Dallas, Texas 75230

and

Metropolitan Library System  
300 Park Avenue  
Oklahoma City, Oklahoma 73102

### **Resources and Information for Small Businesses**

As you may be aware, on January 11, 2002, President Bush signed into law the Superfund Small Business Liability Relief and Brownfields Revitalization Act. This Act contains several exemptions and defenses to CERCLA liability, which we suggest that all parties evaluate. You may obtain a copy of the law via the Internet at:

<http://www.gpo.gov/fdsys/pkg/PLAW-107publ118/pdf/PLAW-107publ118.pdf>

and review the EPA guidances regarding these exemptions at:

<https://cfpub.epa.gov/compliance/resources/policies/cleanup/superfund/>

The EPA has created a number of helpful resources for small businesses.

The EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers, which offer various forms of resources to small businesses. You may inquire about these resources at <https://www.epa.gov/compliance/compliance-assistance-centers>. In addition, the EPA Small Business Ombudsman may be contacted at <https://www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman>. Finally, the EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act (SBREFA), which is enclosed with this letter and available on the Agency's website at <http://www.epa.gov/compliance/small-business-resources-information-sheet>.

### **Response To Information Request**

Pursuant to the authority of CERCLA §104(e), you are hereby requested to respond to the enclosed information request. We encourage you to give this matter your full attention, and we respectfully request you to respond to this request for information within **thirty (30) calendar days** of receipt of this letter. You may designate another official with the requisite authority to respond on behalf of yourself. However, failure to respond to this information request may result in the EPA seeking penalties of up to \$54,789 per day of violation. In addition, furnishing false, fictitious or fraudulent statements or representations is subject to criminal penalty under 18 U.S.C. § 1001.

Please provide a written response to Ms. Anna Copeland, Enforcement Officer, at the address included on page two.

If you or your attorney has legal questions that pertain to this information letter request, please contact Mr. Leonard Schilling, Assistant Regional Counsel at phone number (214) 665-7166, fax number (214) 665-6460 or via email at [schilling.leonard@epa.gov](mailto:schilling.leonard@epa.gov). For contact via mail, use the following address:

Leonard Schilling  
Office of Regional Counsel (6RC-S)  
U.S. EPA Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Please give these matters your immediate attention and consider consulting with an attorney. Thank you for your prompt attention to this matter.

Sincerely yours,



Ben Banipal, P.E., Branch Chief  
Technical and Enforcement Branch  
Superfund Division

**Enclosures:**

1. Information Request
2. Information to Assist You
3. Small Business Resources Fact Sheet

## ENCLOSURE 1

### EAGLE INDUSTRIES, INC., SITE GENERAL NOTICE LETTER INFORMATION REQUEST

#### INFORMATION REQUEST

Under the authority of Section 104(e) of Superfund, the EPA is requesting you to respond to the questions below and to provide any relevant information related to this Site. Relevant information may include information concerning the type and quantity of substances transported to or treated, stored, or disposed of at the Site and releases of hazardous substances at or from the Site.

If you have information about other parties who may have information which may assist the EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), the EPA has broad information gathering authority which allows EPA to require persons to furnish information or documents relating to:

(A) the identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at vessel or facility or transported to a vessel or facility; and,

(B) the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility; and

(C) information relating to the ability of a person to pay for or to perform a cleanup.

While the EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Failure to respond fully and truthfully to the Information Request within thirty (30) calendar days of receipt of this letter, or adequately to justify such failure to respond, can result in enforcement action by the EPA pursuant to Section 104(e) of CERCLA, as amended within. This statute permits the EPA to seek the imposition of penalties of up to \$54,789 for each day of continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

Please be aware that your response may include information that you consider confidential business information. If you make a claim of confidentiality on any of the information you submit to the EPA, you must prove that claim for each document.

Instructions on how to respond to the Questions are described below. Please send your response to this Information Request to Ms. Anna Copeland at the address in the letter.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§3501 et seq.

## **INSTRUCTIONS and DEFINITIONS**

1. Please provide a separate narrative response for each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the Question (or subpart) and the number of the Question (and the letter of a subpart of a Question, if applicable) to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to the U.S. Environmental Protection Agency (EPA). Moreover, should you find, at any time, after submission of your response, that any portion of the submitted information is false or misrepresents the truth, or, though correct when made, is no longer true, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question (and the letter of a subpart of a Question, if applicable) to which it responds.
5. You may assert a business confidentiality claim covering part or all of the information which you submit in response to this request. Any such claim must be made by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet or a stamped or typed legend or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate identification and handling by the EPA. If you make such a claim, the information covered by that claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in subpart B of 40 CFR Part 2. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. The requirements of 40 CFR Part 2 regarding business confidentiality claims were published in the Federal Register on September 1, 1976, and were amended September 8, 1976, and December 18, 1985.
6. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."
7. Objections to questions. If you have objections to some or all the questions within the Information Request Letter, you are still required to respond to each of the questions.

## **DEFINITIONS**

The following definitions shall apply to the following words as they appear in this enclosure:

1. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term "any", as in "any documents" for example, shall mean "any and all."
3. The term "arrangement" means every separate contract or other agreement between two or more persons.
4. The terms "document(s)" and "documentation" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with the printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document. The term "document" shall also mean any electronically stored information, including but not limited to emails, word processing files, spreadsheets, presentations, databases, geographic information system ("GIS") maps, computer-aided design files, scanned or digital photos, and scanned document images.
5. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business and personal addresses, email address(es), and telephone numbers, and present or last known job title, position or business. Also provide e-mail addresses.
6. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g. corporation [including state of incorporation], partnership, etc.),



organization, if any, a brief description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist. Also provide e-mail addresses.

7. The term "identify" means, with respect to a document, to provide the type of document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), subject matter, the identity of the author, addressor, addressee and/or recipient, and the present location of such document.

8. The term "person" shall have the same definition as in Subsection 101 (21) of CERCLA, 42 U.S.C. § 9601 (21).

9. The term "Site" or "facility" shall mean and include the Eagle Industries, Inc., Site in Midwest City, Oklahoma.

10. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, partners, successors and agents.

11. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

12. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 CFR Part 300 or 40 CFR Parts 260-280, in which case the statutory or regulatory definitions shall apply.

## QUESTIONS

1. Please provide Respondent's current legal name, Respondent's previous legal name(s), previous fictitious name(s), current phone number, and current fax number.
2. Does the Respondent wish to designate an individual for future correspondence from the U.S. Environmental Protection Agency that associates the Respondent to this Site? If yes, please provide the individual's name, address, telephone number, and fax number.
3. Please identify Eagle Industries' corporate parent and all of its corporate subsidiaries.
4. Identify the current owner and/or operator of the Site. State the dates during which the current owner and/or operator owned, operated or leased any portion of the Site and provide copies of all documents evidencing or relating to such ownership, operation or lease, including but not limited to purchase and sale agreements, deeds, leases, etc.
5. If you are the current owner and/or current operator, did you acquire or operate the Site or any portion of the Site after the disposal or placement of hazardous substances on, or at the Site? Describe all of the facts on which you base the answer to the preceding question.
6. At the time you acquired or operated the Site, did you know or have reason to know that any hazardous substance was disposed of on, or at the Site? Describe all investigations of the Site you undertook prior to acquiring the Site and all of the facts on which you base the answer to the preceding question.
7. Identify all prior owners of the Site. For each prior owner, further identify:
  - a. The dates of ownership;
  - b. All evidence showing that they controlled access to the Site; and
  - c. All evidence that a hazardous substance, pollutant, or contaminant, was released or threatened to be released at the Site during the period that they owned the Site.
8. Identify all prior operators of the Site, including lessors, of the Site, for each such operator, further identify:
  - a. The dates of operation;
  - b. The nature of prior operations at the Site;
  - c. All evidence that they controlled access to the Site; and
  - d. All evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Site and/or its solid waste units during the period that they were operating the Site.
9. Describe the nature of your activities or business at the Site, with respect to purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials at the Site.

10. Did you ever use, purchase, generate, store, treat, dispose, or otherwise handle at the Site any hazardous substances? If the answer to the preceding question is anything but an unqualified "no,":
- Identify the material(s), e.g., the chemical name(s) and composition or trade name(s).
  - Identify the time period(s) during which the material(s) was used.
  - Briefly describe the purpose for which the material(s) was used at the facility. If more than one use, describe each purpose and the time period(s) when each was used.
  - Identify the total volume (in gallons) of the material(s) used during the time period(s), i.e., if more than one time period is involved also provide the volume for each time period.
  - Briefly describe how and where the material(s) was stored at the facility.
  - Identify the approximate average volume of the material(s) stored at the facility and, if the storage practice changed during the period(s), identify how and when.
  - Identify the date(s) when the material(s) was delivered to the facility and in what volume(s).
  - Briefly describe how the material(s) was delivered to the facility, i.e., in bulk or in closed containers.
  - Identify the location(s) where the material(s) was used at the facility.
  - Briefly describe how the material(s) was transported from on-site storage at the facility to the point where it was applied, in what amounts, and how this was done, e.g., using containers, hoses, piping, and/or other equipment.
  - Briefly describe the procedure(s) for cleaning each piece(s) of equipment in which, at any time, the material(s) was stored, transported, and/or processed at the facility. Description should identify how, where, when, and by whom the item(s) of equipment was cleaned.
  - Briefly describe how and where containers for the material(s) were removed from the facility. If any of the practices described in your responses to the above sub-questions changed during the period that Respondent leased, owned, and/or operated the facility, describe the change(s) and when it occurred.
11. Did any leaks, spills, or releases into the environment of any hazardous substances, pollutants, or contaminants occur at or from the Site? If the answer to the preceding question is anything but an unqualified "no," identify:
- When such releases occurred;
  - How the releases occurred (e.g. when the substances were being stored, delivered by a vendor, transported or transferred (to or from any tanks, drums, barrels, or recovery units), and treated).
  - The amount of each hazardous substances, pollutants, or contaminants so released;
  - Where such releases occurred;
  - Any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release.
  - Any and all investigations of the circumstances, nature, extent or location of each release or threatened release including, the results of any soil, water (ground and surface), or air testing undertaken; and
  - All persons with information relating to these releases

12. Provide copies of all current and past casualty, liability and/or pollution insurance policies including but not limited to comprehensive general liability, primary, umbrella and excess policies, as well as any environmental impairment liability or pollution legal liability insurance.

13. If there are any casualty, liability and/or pollution insurance which you have any evidence, or of which you are aware, but neither possess copies, nor are able to obtain copies, identify each such policy to the best of your ability by identifying:

- a. The name and address of each insurer and of the insured;
- b. The type of policy and policy numbers;
- c. The per occurrence or per accident policy limits of each policy;
- d. Whether each such policy is "primary" or "excess"; and
- e. The commencement and expiration dates of such policy.

14. If you believe there may be any person(s) able to provide a more detailed or complete response to any of the preceding questions and/or sub-questions or any person(s) who may be able to provide additional responsive documents, please identify such person(s) and the additional information you believe they may have.

**ENCLOSURE 2**

**EAGLE INDUSTRIES, INC., SITE  
GENERAL NOTICE LETTER  
INFORMATION REQUEST**

**INFORMATION TO ASSIST YOU**

**PARTIES RECEIVING GENERAL NOTICE LETTER**

Eagle Industries, Inc.  
10901 SE 29<sup>th</sup> Street  
Midwest City, Oklahoma 73130

Billie Hairl Salmon  
Registered Agent of Eagle Industries, Inc.  
1329 Park Avenue  
Midwest City, Oklahoma 73130

Mr. Matthew Salmon  
President of Eagle Industries, Inc.  
14900 SE 79<sup>th</sup> Street  
Choctaw, Oklahoma 73020

# OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY



## Eagle Industries Site Information

Midwest City, Oklahoma

February 2017

### Site Location and History

Eagle Industries is a 2.271 acre property located at 10901 S.E. 29th Street in Midwest City. Eagle Industries inspected and repaired aircraft oxygen and fire extinguisher systems for third party customers from 1990 through 2010s. A 2003 Department of Environmental Quality (DEQ) inspection found the company dumping trichloroethylene (TCE) on the ground. DEQ worked with the facility to stop the practice and assess the environmental damage. In 2009, Eagle entered into a legal consent order with DEQ pledging to investigate the nature and extent of the ground water pollution. The company did not have the financial resources to fulfill its responsibilities. The facility appears to be inactive at this time.

### Site Environmental Issues

TCE has been found in onsite soil and ground water. TCE is a common industrial solvent. It is carcinogenic and toxic. The contaminated ground water is moving south from the Eagle Industries site and is detected in some drinking water wells. Businesses and residents south of S.E. 29th between S. Westminster Road and S. Noma Road are not currently serviced by public water supplies.

### What is Superfund?

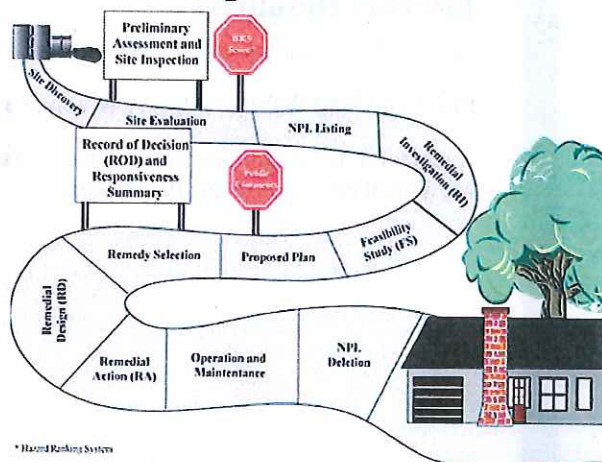
DEQ is currently working with the Environmental Protection Agency (EPA) to investigate the potential of addressing site contamination through EPA's Superfund Program. Superfund is the federal government's program to clean up the nation's uncontrolled hazardous waste sites.

- The Superfund Program was established by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980. CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA) in 1986 and the Small Business Liability Relief and Brownfields Revitalization Act of 2002.
- CERCLA is the law that allows EPA to clean up contaminated sites and to compel responsible parties to perform cleanups or reimburse the government for EPA-funded cleanups.



Eagle Industries site

### The Superfund Process



This publication is issued by the Oklahoma Department of Environmental Quality authorized by Scott A. Thompson, Executive Director. Copies have been prepared at a cost of \$0.105 each. Copies have been deposited with the publications clearinghouse of the Oklahoma Department of Libraries (Fact Sheets LPD/Eagle Industries.indd 2/2017).



# Eagle Industries Site Information



## Ground Water Testing

If you live in the Eagle Industries Ground Water Study Area identified as the blue box on the facility location map (right) and would like to have your ground water well tested, please contact Sara Downard at DEQ.

### Sara Downard

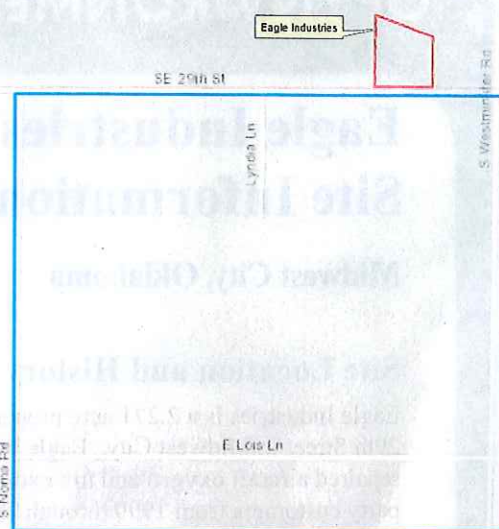
Environmental Programs Specialist  
Site Remediation Section  
Land Protection Division  
Oklahoma Department of Environmental Quality  
405-702-5126  
Sara.Downard@deq.ok.gov

## Internet Resources

DEQ Website: <http://www.deq.state.ok.us/>

EPA Superfund Website: <https://www.epa.gov/superfund>

Agency for Toxic Substances and Disease Registry, Trichloroethylene Fact Sheet: <https://www.atsdr.cdc.gov/toxfaqs/tfacts19.pdf>



Eagle Industries Location

listed in this document will be published subsequently in the Order.

# Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

# Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

# List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

# The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

# PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

## § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

ASW LA E5 Boothville, LA [New]

Boothville Heliport, LA  
(Lat. 29°21'15" N., long. 89°26'09" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Boothville Heliport.

Issued in Fort Worth, TX; on July 27, 2017.

Walter Tweedy,

Acting Manager, Operations Support Group,  
ATO Central Service Center.

[FR Doc. 2017–16285 Filed 8–2–17; 8:45 am]

BILLING CODE 4910–13–P

# ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 300

[EPA–HQ–OLEM–2017–0073, 0074, 0075 and 0076; EPA–HQ–SFUND–1994–0003; FRL–9965–36–OLEM]

## National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** The Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the agency") in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule proposes to add four sites to the General Superfund section of the NPL and withdraws a previous proposal to list one site on the NPL.

**DATES:** Comments regarding any of these proposed listings must be submitted (postmarked) on or before October 2, 2017.

**ADDRESSES:** Identify the appropriate docket number from the table below.

## DOCKET IDENTIFICATION NUMBERS BY SITE

Site name	City/county, state	Docket ID No.
Newark South Ground Water Plume .....	Newark, DE .....	EPA–HQ–OLEM–2017–0073.
American Creosote DeRidder .....	DeRidder, LA .....	EPA–HQ–OLEM–2017–0074.
Mississippi Phosphates Corporation .....	Pascagoula, MS ....	EPA–HQ–OLEM–2017–0075.
Eagle Industries .....	Midwest City, OK ...	EPA–HQ–OLEM–2017–0076.

Submit your comments, identified by the appropriate docket number, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any

information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to

make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on



making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

To send a comment via the United States Postal Service, use the following address: U.S. Environmental Protection Agency, EPA Superfund Docket Center, Mailcode 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Use the Docket Center address below if you are using express mail, commercial delivery, hand delivery or courier. Delivery verification signatures will be available only during regular business hours: EPA Superfund Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004.

For additional docket addresses and further details on their contents, see section II, "Public Review/Public Comment," of the SUPPLEMENTARY INFORMATION portion of this preamble.

#### FOR FURTHER INFORMATION CONTACT:

Terry Jeng, phone: (703) 603-8852, email: [jeng.terry@epa.gov](mailto:jeng.terry@epa.gov), Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mailcode 5204P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; or the Superfund Hotline, phone (800) 424-9346 or (703) 412-9810 in the Washington, DC, metropolitan area.

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##### I. Background

###### A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law 99-499, 100 Stat. 1613 *et seq.*

###### B. What is the NCP?

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions.

The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

###### C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of "releases" and the highest priority "facilities" and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the "General Superfund section"), and one of sites that are owned or operated by other federal agencies (the "Federal Facilities section"). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System ("HRS") score and determining whether the facility is placed on the NPL.

#### D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Pursuant to 42 U.S.C. 9605(a)(8)(B), each state may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each state as the greatest danger to public health, welfare or the environment among known facilities in the state. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2). (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- The EPA determines that the release poses a significant threat to public health.
- The EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

#### E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). ("Remedial actions" are those "consistent with permanent remedy, taken instead of or in addition to removal actions. \* \* \* 42 U.S.C.

9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL "does not imply that monies will be expended." The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

#### F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the "boundaries" of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the "Jones Co. Plant site") in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the "site"). The "site" is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In

addition, the site name is merely used to help identify the geographic location of the contamination, and is not meant to constitute any determination of liability at a site. For example, the name "Jones Co. Plant site," does not imply that the Jones Company is responsible for the contamination located on the plant site.

The EPA regulations provide that the remedial investigation ("RI") "is a process undertaken . . . to determine the nature and extent of the problem presented by the release" as more information is developed on site contamination, and which is generally performed in an interactive fashion with the feasibility study ("FS") (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted previously, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

#### G. How are sites removed from the NPL?

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

- (i) Responsible parties or other persons have implemented all appropriate response actions required;
- (ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

*H. May the EPA delete portions of sites from the NPL as they are cleaned up?*

In November 1995, the EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

*I. What is the Construction Completion List (CCL)?*

The EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) the site qualifies for deletion from the NPL. For more information on the CCL, see the EPA's Internet site at [https://www.epa.gov/superfund/superfund-remedial-performance-measures#cc\\_anchor](https://www.epa.gov/superfund/superfund-remedial-performance-measures#cc_anchor).

*J. What is the Sitewide Ready for Anticipated Use measure?*

The Sitewide Ready for Anticipated Use measure (formerly called Sitewide Ready-for-Reuse) represents important Superfund accomplishments and the measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, OSWER 9365.0-36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to <https://www.epa.gov/superfund/about-superfund-cleanup-process#tab-9>.

*K. What is state/tribal correspondence concerning NPL listing?*

In order to maintain close coordination with states and tribes in the NPL listing decision process, the EPA's policy is to determine the position of the states and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following Web site: <https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing>.

The EPA is improving the transparency of the process by which state and tribal input is solicited. The EPA is using the Web and where appropriate more structured state and tribal correspondence that (1) explains the concerns at the site and the EPA's rationale for proceeding; (2) requests an explanation of how the state intends to address the site if placement on the NPL is not favored; and (3) emphasizes the transparent nature of the process by informing states that information on their responses will be publicly available.

A model letter and correspondence from this point forward between the EPA and states and tribes where applicable, is available on the EPA's Web site at <https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing>.

**II. Public Review/Public Comment**

*A. May I review the documents relevant to this proposed rule?*

Yes, documents that form the basis for the EPA's evaluation and scoring of the sites in this proposed rule are contained in public dockets located both at the EPA Headquarters in Washington, DC, and in the regional offices. These documents are also available by electronic access at <https://www.regulations.gov> (see instructions in the "Addresses" section above).

*B. How do I access the documents?*

You may view the documents, by appointment only, in the Headquarters or the regional dockets after the publication of this proposed rule. The hours of operation for the Headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding federal holidays. Please contact the regional dockets for hours.

The following is the contact information for the EPA Headquarters Docket; Docket Coordinator, Headquarters, U.S. Environmental Protection Agency, CERCLA Docket Office, 1301 Constitution Avenue NW.,

William Jefferson Clinton Building West, Room 3334, Washington, DC 20004; 202/566-0276. (Please note this is a visiting address only. Mail comments to the EPA Headquarters as detailed at the beginning of this preamble.)

The contact information for the regional dockets is as follows:

- Holly Inglis, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109-3912; 617/918-1413.

- Ildefonso Acosta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007-1866; 212/637-4344.

- Lorie Baker (ASRC), Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, Library, 1650 Arch Street, Mailcode 3HS12, Philadelphia, PA 19103; 215/814-3355.

- Cathy Amoroso, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street SW., Mailcode 9T25, Atlanta, GA 30303; 404/562-8637.

- Todd Quesada, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Librarian/SFD Records Manager SRC-7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; 312/886-4465.

- Brenda Cook, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Suite 1200, Mailcode 6SFTS, Dallas, TX 75202-2733; 214/665-7436.

- Kumud Pyakuryal, Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Mailcode SUPRSTAR, Lenexa, KS 66219; 913/551-7956.

- Victor Ketellapper, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mailcode 8EPR-B, Denver, CO 80202-1129; 303/312-6578.

- Sharon Murray, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mailcode SFD 6-1, San Francisco, CA 94105; 415/947-4250.

- Ken Marcy, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 6th Avenue, Mailcode ECL-112, Seattle, WA 98101; 206/463-1349.

You may also request copies from the EPA Headquarters or the regional dockets. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents. Please note that due to the difficulty of reproducing oversized maps, oversized maps may be viewed only in-person; since the EPA dockets are not equipped to both copy and mail out such maps or scan them and send them out electronically.

You may use the docket at <https://www.regulations.gov> to access

documents in the Headquarters docket (see instructions included in the ADDRESSES section). Please note that there are differences between the Headquarters docket and the regional dockets and those differences are outlined in this preamble, Sections II.C and D.

*C. What documents are available for public review at the EPA Headquarters docket?*

The Headquarters docket for this proposed rule contains the following for the sites proposed in this rule: HRS score sheets; documentation records describing the information used to compute the score; information for any sites affected by particular statutory requirements or the EPA listing policies; and a list of documents referenced in the documentation record.

*D. What documents are available for public review at the EPA regional dockets?*

The regional dockets for this proposed rule contain all of the information in the Headquarters docket plus the actual reference documents containing the data principally relied upon and cited by the EPA in calculating or evaluating the HRS score for the sites. These reference documents are available only in the regional dockets.

*E. How do I submit my comments?*

Comments must be submitted to the EPA Headquarters as detailed at the beginning of this preamble in the ADDRESSES section. Please note that the mailing addresses differ according to method of delivery. There are two different addresses that depend on whether comments are sent by express mail or by postal mail.

*F. What happens to my comments?*

The EPA considers all comments received during the comment period. Significant comments are typically addressed in a support document that the EPA will publish concurrently with the Federal Register document if, and when, the site is listed on the NPL.

*G. What should I consider when preparing my comments?*

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that the EPA should consider and how it affects individual HRS factor values or other listing criteria (*Northside Sanitary Landfill v. Thomas*, 849 F.2d 1516 (D.C. Cir. 1988)). The EPA will not address voluminous comments that are not referenced to the HRS or other listing criteria. The EPA will not address comments unless they indicate which component of the HRS documentation record or what particular point in the EPA's stated eligibility criteria is at issue.

*H. May I submit comments after the public comment period is over?*

Generally, the EPA will not respond to late comments. The EPA can guarantee only that it will consider those comments postmarked by the close of the formal comment period. The EPA has a policy of generally not delaying a final listing decision solely to accommodate consideration of late comments.

*I. May I view public comments submitted by others?*

During the comment period, comments are placed in the Headquarters docket and are available to

the public on an "as received" basis. A complete set of comments will be available for viewing in the regional dockets approximately one week after the formal comment period closes.

All public comments, whether submitted electronically or in paper form, will be made available for public viewing in the electronic public docket at <https://www.regulations.gov> as the EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI) or other information whose disclosure is restricted by statute. Once in the public dockets system, select "search," then key in the appropriate docket ID number.

*J. May I submit comments regarding sites not currently proposed to the NPL?*

In certain instances, interested parties have written to the EPA concerning sites that were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

### III. Contents of This Proposed Rule

#### A. Proposed Additions to the NPL

In this proposed rule, the EPA is proposing to add four sites to the NPL, all to the General Superfund section. All of the sites in this proposed rulemaking are being proposed based on HRS scores of 28.50 or above.

The sites are presented in the table below.

#### GENERAL SUPERFUND SECTION

State	Site name	City/county
DE .....	Newark South Ground Water Plume .....	Newark.
LA .....	American Creosote DeRidder .....	DeRidder.
MS .....	Mississippi Phosphates Corporation .....	Pascagoula.
OK .....	Eagle Industries .....	Midwest City.

*B. Withdrawal of Previous Proposal To List a Site on the NPL*

The EPA is withdrawing its previous proposal to add the Burlington Northern Livingston Shop Complex site in Livingston, Montana to the NPL because the potentially responsible party, Burlington Northern Santa Fe Railway Company, will complete the remaining actions to investigate and clean up contamination at the facility pursuant to

the State of Montana Comprehensive Environmental Cleanup and Responsibility Act (CECRA) and the 1990 Modified Partial Consent Decree and subsequent Statements of Work. The rule proposing to add this site to the NPL can be found at 59 FR 43314 (August 23, 1994). Refer to the Docket ID Number EPA-HQ-SFUND-1994-0003 for supporting documentation regarding this action. Other information

regarding this site can be found on the Montana Department of Environmental Quality Web page at <http://deq.mt.gov/Land/statesuperfund/bnlivingston>.

#### IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

**A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review**

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

**B. Paperwork Reduction Act (PRA)**

This action does not impose an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.

**C. Regulatory Flexibility Act (RFA)**

I certify that this action will not have a substantial economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet, and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

**D. Unfunded Mandates Reform Act (UMRA)**

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local or tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL.

**E. Executive Order 13132: Federalism**

This rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

**F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments**

This action does not have tribal implications as specified in Executive Order 13175. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

**G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks**

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

**H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use**

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

**I. National Technology Transfer and Advancement Act (NTTAA)**

This rulemaking does not involve technical standards.

**J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations**

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. As discussed in Section I.C. of the preamble to this action, the NPL is a list of national priorities. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance as it does

not assign liability to any party. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

**Dated:** July 27, 2017.

**Barry N. Breen,**  
Acting Assistant Administrator, Office of Land and Emergency Management.

[FR Doc. 2017–16171 Filed 8–2–17; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 680**

RIN 0648–BG84

**Fisheries of the Exclusive Economic Zone off Alaska; Bering Sea and Aleutian Islands Management Area; Bering Sea and Aleutian Islands Crab Rationalization Program**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council (Council) submitted Amendment 48 to the Fishery Management Plan for Bering Sea/ Aleutian Islands King and Tanner Crabs (Crab FMP) to NMFS for review. If approved, Amendment 48 would revise the Crab FMP to specify how NMFS determines the amount of limited access privileges held and used by groups in the Western Alaska Community Development Quota Program (CDQ Program) for the purposes of managing the excessive share limits under the Crab Rationalization (CR) Program. Amendment 48 is necessary to make the Crab FMP consistent with Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens

**ENCLOSURE 3**

**EAGLE INDUSTRIES, INC., SITE  
GENERAL NOTICE LETTER  
INFORMATION REQUEST**

**SMALL BUSINESS RESOURCES FACT SHEET**



## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### Small Business Programs

[www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)  
EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

### EPA's Asbestos Small Business Ombudsman

[www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888  
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

### EPA's Compliance Assistance Homepage

[www2.epa.gov/compliance](http://www2.epa.gov/compliance)  
This page is a gateway industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

### EPA's Compliance Assistance Centers

[www.assistancecenters.net](http://www.assistancecenters.net)  
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

### Agriculture

[www.epa.gov/agriculture/](http://www.epa.gov/agriculture/)

### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

**Automotive Service and Repair**  
[ccar-greenlink.org/](http://ccar-greenlink.org/) or 1-888-GRN-LINK

**Chemical Manufacturing**  
[www.chemalliance.org](http://www.chemalliance.org)

**Construction**  
[www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911

**Education**  
[www.campuserc.org](http://www.campuserc.org)

**Food Processing**  
[www.fpeac.org](http://www.fpeac.org)

**Healthcare**  
[www.hercenter.org](http://www.hercenter.org)

**Local Government**  
[www.lgean.org](http://www.lgean.org)

**Metal Finishing**  
[www.nmfrc.org](http://www.nmfrc.org)

**Paints and Coatings**  
[www.paintcenter.org](http://www.paintcenter.org)

**Printing**  
[www.pneac.org](http://www.pneac.org)

**Ports**  
[www.portcompliance.org](http://www.portcompliance.org)

**Transportation**  
[www.tercenter.org](http://www.tercenter.org)

**U.S. Border Compliance and Import/Export Issues**  
[www.bordercenter.org](http://www.bordercenter.org)

### EPA Hotlines, Helplines and Clearinghouses

[www2.epa.gov/home/epa-hotlines](http://www2.epa.gov/home/epa-hotlines)  
EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

**Clean Air Technology Center (CATC) Info-line**  
[www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800

**Superfund, TRI, EPCRA, RMP and Oil Information Center**  
[www.epa.gov/superfund/contacts/infocenter/index.htm](http://www.epa.gov/superfund/contacts/infocenter/index.htm) or 1-800-424-9346

**EPA Imported Vehicles and Engines Public Helpline**  
[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or 734-214-4100

**National Pesticide Information Center**  
[www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-858-7378

**National Response Center Hotline** to report oil and hazardous substance spills - [www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

**Pollution Prevention Information Clearinghouse (PPIC)** - [www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or 1-202-566-0799

**Safe Drinking Water Hotline** - [www.epa.gov/drink/hotline/index.cfm](http://www.epa.gov/drink/hotline/index.cfm) or 1-800-426-4791

## Small Business Resources

### Stratospheric Ozone Protection Hotline

[www.epa.gov/ozone/comments.htm](http://www.epa.gov/ozone/comments.htm) or 1-800-296-1996

### Toxic Substances Control Act (TSCA) Hotline

[tsc hotline@epa.gov](mailto:tsc hotline@epa.gov) or 1-202-554-1404

### Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

### Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

### State Resource Locators

[www.envcap.org/statetools](http://www.envcap.org/statetools)

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

### State Small Business Environmental Assistance Programs (SBEAPs)

[www.epa.gov/sbo/507program.htm](http://www.epa.gov/sbo/507program.htm)

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

### EPA's Tribal Portal

[www.epa.gov/tribalportal/](http://www.epa.gov/tribalportal/)

The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

### EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

### EPA's Small Business Compliance Policy

[www2.epa.gov/enforcement/small-businesses-and-enforcement](http://www2.epa.gov/enforcement/small-businesses-and-enforcement)

This Policy offers small businesses special incentives to come into compliance voluntarily.

### EPA's Audit Policy

[www2.epa.gov/compliance/epas-audit-policy](http://www2.epa.gov/compliance/epas-audit-policy)

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*